

REMARKS

Claims 1-39, 41-44, 46-52, 54-59 were pending. Claims 1, 13-16, 35-37 and 51-52 were rejected while claims 2-12, 17-34, 43-45 and 59 were objected to. Claims 38, 39, 41-44, 46-50 and 54-58 were allowed. Claims 51 and 52 have been canceled. Therefore, claims 1-39, 41-44, 46-50, 54-59 are currently pending. The applicant requests further examination and reconsideration in view of the amendments made above and the remarks set forth below.

Rejections under 35 U.S.C. § 102(b):

Claims 1, 13-16, 35-37 and 51 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 6,196,681 issued to Canavan (hereinafter referred to as "Canavan"). The Applicants respectfully traverse the rejection.

Claim 1 recites an eyeglass assembly comprising two principal elements: an eyeglass frame; and a rib coupled to the eyeglass frame. The eyeglass frame has lens receptacles. The rib includes a brow portion having side portions extending above the lens receptacles. The rib also includes extensions coupled to the brow portion, extending downwardly along both sides of a wearer's nose. The rib has a pliable coating on at least some of its surface.

Canavan discloses an eye covering that includes a unitary structure made by a two-shot process in a single mold with an outer hard portion 12A bonded to a soft inner portion 12B. Canavan, column 2, lines 10-13 and Figure 1. The eye covering also includes transparent lens pieces and temple pieces. Canavan, column 2, lines 15-17.

In making the rejection, the examiner essentially takes the position that the claim language, which recites both an eyeglass frame and a rib coupled to the eyeglass frame, is anticipated by the single, unitary structure of Canavan. The Applicants disagree. As stated in the Manual of Patent Examining Procedure, claims are interpreted as broadly as their terms reasonably allow; however, the words of the claim must be given their plain meaning. MPEP § 2111.01 (8th Ed., Aug. 2005). The plain meaning of the term "coupled to" is "to fasten together" or "join." See Merriam-Webster Online Dictionary (2005). Clearly, for a structure to be fastened or joined, there must be two or more

elements which are brought together. In claim 1, the two elements brought together are an eyeglass frame and rib. The rib is coupled to the eyeglass frame and has a pliable coating on at least some of its surface.

In contrast, Canavan discloses an eye covering including lenses, temples and a "unitary structure." Accordingly, Canavan does not disclose both a rib and a frame as in claim 1, but instead discloses a unitary structure – i.e. a single undivided unit.

As stated in the Manual of Patent Examining Procedure:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Section 2131 (8th Ed., August 2005). And, as noted by the Court of Appeals for the Federal Circuit, "exclusion of a claimed element from a prior art reference is enough to negate anticipation by that reference." *Atlas Powder Co. v. E. I. Du Pont de Nemours & Co.*, 750 F.2d 1569, 1574 (Fed. Cir. 1984). By specifying that that its structure is unitary, Canavan cannot disclose a structure that includes both an eyeglass frame and a rib, as in claim 1. Therefore, Canavan does not suggest or disclose each and every feature recited in claim 1. For at least this reason, claim 1 is allowable. Claims 2-15 and 59 are allowable over the cited art at least because they are dependent from allowable base claim 1.

Claim 16 recites, among other limitations, an eyeglass frame and a rib coupled to an inner side of the eyeglass frame and the rib having a pliable coating. Claim 16 is allowable at least because Canavan does not suggest or disclose an eyeglass assembly having both a frame; and a rib coupled to the eyeglass frame. Claim 17-37 are allowable at least because they are dependent from allowable base claim 16.

Claim 51 has been canceled.

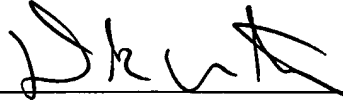
Rejections under 35 U.S.C. § 103(a):

Claim 52 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Canavan. Claim 52 has been canceled.

In view of the above, the Applicant respectfully submits that all of the pending claims are now allowable. Allowance at an early date would be greatly appreciated. Should any issues remain, the examiner is encouraged to telephone the undersigned at (408) 293-9000 to discuss the same so that any outstanding issues may be expeditiously resolved.

Law Offices of Derek J. Westberg

Dated: Nov. 23, 2005

A handwritten signature in black ink, appearing to read 'Derek J. Westberg', written over a horizontal line.

Derek J. WESTBERG (Reg. No. 40,872)